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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,791	01/29/2002	Katherine S. Clement	60072A	8247
109	7590	12/07/2006	EXAMINER	
THE DOW CHEMICAL COMPANY INTELLECTUAL PROPERTY SECTION, P. O. BOX 1967 MIDLAND, MI 48641-1967			TRUONG, DUC	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/060,791	Applicant(s) CLEMENT ET AL.	
	Examiner Duc Truong	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-9, 15-18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-14 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>01/22/07</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In the response to the restriction requirement, Applicants elect species (1), claims 1-6, 10-14 and 19, a mixture of halogenated containing initiator compound.

In the case if claims 1-6, 10-14 and 19 are in condition of allowance, then the search is further expanded to non-elected species.

Claims 1, 6 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 6 are indefinite in the use of "about 1100 to 10,500 parts by weight, based on the weight of the product" in that it does not defined the weight% of the product.

Claim 19 is indefinite in the use of "about 2000 to about 10,000 ppm of a metal cyanide catalyst" in that it does not determine said ratios are based on what?.

It is recommended that the claims should be amended based on the teaching at page 7, lines 3-4.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10-14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shen et al (5,854,386) of record on 1449.

The reference discloses a process for the preparation of polymer polyol stabilizers, and to polymer polyols prepared therefrom (see col. 1, line 5 et seq.).

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Note that polyethers containing both hydroxyl functionality and unsaturation functionality are prepared by oxyalkylating an unsaturated monomer having at least one oxyalkylatable hydrogen in the presence of an effective amount of a double metal cyanide complex catalyst (see Abstract and at col. 2, line 65 et seq.).

Note also that the stabilizers corresponds to mixtures containing alkanol in that alkylene is substituted by halogens such as fluoro, chloro or bromo-, as halogen containing alcohol, and can be considered as the claimed initiators, as in claim 5.

Note also that the alkylene oxide employed in oxyalkylating the starter or initiator may be any alkylene oxide polymerizable with double metal cyanide catalysts, such as ethylene oxide, propylene oxide, butylenes oxide, and halogenated alkylene oxides (see col. 4, lines 25-30).

Note also that the amount of catalyst are in the range of 250 ppm to 1000 ppm, based on the weight of the product. (see col. 5, lines 49-56).

The disclosure of the reference differs from the instant claims in that it does not disclose the claimed range, of "from about 1100 to 10,500 parts by weight or 2000 to 10,000 parts by weight, based on the weight of the product".

However, the reference does disclose the closed range, of from 250 to 1000 ppm, based on the weight of the product" (see col. 5, lines 49-54) under the same or similar conditions to form the same or similar products. Therefore, it would have been obvious to one of ordinary skill in the art to modify the weight ratio of said catalyst from the reference within the limitation of the instant claims since they have been shown to be

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effective in a similar system and thus would have been expected to provide adequate results. There is no showing of unexpected results derived from said modification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Truong whose telephone number is 571-272-1081. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DUCTRUONG
PRIMARY EXAMINER